

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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SERIAL NO.: 10/535,713 ART UNIT: 3643

FILED: February 2, 2006 EXAMINER: Hayes, K.C.

TITLE: METHOD AND APPARATUS FOR DETECTING MASTITIS

Amendment B: REMARKS

Upon entry of the present amendments, Claim 21-29 remain pending. Claims 1 - 20 were previously canceled. Claim 21 has been amended. Claim 29 has been added. Reconsideration of the rejections, in light of the forgoing amendments and present remarks, is respectfully requested. The present amendments have been entered for the purpose of placing the claim language into a condition for allowance.

In the Office Action, Claims 21 and 25 were rejected under 35 U.S.C. § 102(b) as anticipated by the Kolehamainen patent. Claims 22-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Kolehamainen patent in view of the Knight European patent. Claims 25-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Kolehamainen patent in view of the Aerojet British patent. The claims were also rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

As an overview to the present reply, Applicant has removed the subject matter rejected under 35 U.S.C. § 112, first paragraph. The original language is re-presented, and alternate claim language has been proposed. Claim 21 has been amended, and Claim 29 presents alternative language for another independent claim to be considered by the Examiner.

Claim 21 has been amended to further describe the "substance produced by cells". The

substance is extracellular, unlike the prior art Kolehmainen reference, which relies upon a reaction with busted cell contents. New independent Claim 29 presents further alternative language, describing the substance as "formed before the step of introducing the sample and the reagent". This alternative further distinguishes the invention from the prior art methods relying upon an incubation period. The basis for these amendments is found in Paragraphs [0018] - [0023], and [0076] of the original specification.

Claim 21 has been further amended to clarify the step of immediately measuring the light produced from the reaction. The separate steps of emitting and measuring are combined into "measuring an immediate peak of light intensity". The emitting and measuring are virtually simultaneous under the present invention, so the description is more accurate. Claim 29 presents the alternate language of "detecting" the immediate flash of light as the measurement to analyze the milk sample. These amendments distinguish the present invention from the prior art Kolehmainen patent and the combinations with the Kolehmainen patent. The basis for these amendments is found in Paragraphs [0077]-[0079] of the original specification.

Independent Claims 21 and 29 now recite the proper description of the invention. These independent Claims distinguish the present invention from the prior art by specifying the differences in sequence and content. The chemical reaction measured is not the same as the chemical reaction of the prior art, and the timing and sequence is significantly different. Such differences generate benefits and advantages in milk process that cannot be realized by the prior art. There is innovation and efficacy of the present invention.

Dependent Claims 22 - 28 corresponds to the limitations of previous dependent Claims 2 - 8. If Claim 29 is allowed, then Applicant will add corresponding dependent claims. None of the

these new claims would be above the amount already paid for.

Applicant further acknowledges the Applicant Initiated Interview on March 12, 2009 as conducted by telephone. Applicant acknowledges that the Examiner has agreed to provide a summary of the substance of the interview. Applicant's attorney will review the summary when available.

Based upon the foregoing analysis, Applicant contends that independent Claims 21 and 29 are now in proper condition for allowance. Additionally, those claims which are dependent upon the independent claims should also be in condition for allowance. Reconsideration of the rejections and allowance of the claims at an early date is earnestly solicited. Since no new claims have been added above those originally paid for, no additional fee is required.

Respectfully submitted,

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Date  
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